

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA, SOUTHERN DIVISION

ARMANDO VILLANUEVA and)	
HORTENCIA SAINZ, individually)	
and as successor in interest)	
to Pedro Villanueva, deceased,)	
and FRANCISCO OROZCO,)	
individually,)	
)	
Plaintiff,)	
)	
vs.)	CASE NO: 8:17-cv-
)	01302-JLS-KES
)	
STATE OF CALIFORNIA; et al.,)	
)	
Defendants.)	
_____)	

VIDEOTAPED DEPOSITION OF CLARENCE R. CHAPMAN

Taken on

Monday, August 6, 2018

Amber Pilson, CSR 13992

1 A Always.

2 Q And you agree with that?

3 A Yes.

4 Q And it also talks about deadly force only
13:27 5 being used in the direst of circumstances?

6 A I agree with that.

7 Q Okay. And that's not only part of post
8 standards, that's part of police officer training;
9 is that fair?

13:27 10 A Yes.

11 Q And it also talks about the reverence for
12 human life which we've briefly spoke about already?

13 A Correct.

14 Q And also the post standards with respect to
13:27 15 the use of deadly force also talk about not using
16 deadly force if other reasonable measures are
17 available, and you generally agree with that?

18 A Alternatives, yes.

19 Q And one of the alternatives, I think, we
13:28 20 talked about in the context of a moving vehicle is
21 is to step out of the path if you can?

22 A That's probably the best alternative.

23 Q The post talks about giving a warning that
24 you're going to use deadly force when feasible?

13:28 25 A When feasible, yes. Yes. If that warning

1 can be perceived and understood by the individual,
2 and there's enough time for the individual to comply
3 with that warning.

4 Q An officer should, in part, consider the
13:28 5 background when firing?

6 A It's called backdrop, yes. Backdrop
7 considerations and collateral damage is always
8 tantamount in any decision to use firearms as a
9 defensive method of force.

13:29 10 Q The Post Learning Domain 20 talks about
11 subject fear alone being insufficient to use force
12 including deadly force?

13 A Yes. Subjective fear is basically that
14 fear of the officer has no foundation in any
13:29 15 objective condition that may occur at the time. In
16 other words, just an individual being afraid of
17 something is not justification to use deadly force.

18 Q Now, have you reviewed or seen cases
19 before, whether you've been retained or you've seen
13:29 20 a video on television or whatever it might be, where
21 you thought that the officers overreacted by using
22 deadly force?

23 A Oh, yes.

24 Q Okay. And when an officer overreacts in
13:29 25 using deadly force would that be a, at least in your

1 fleeing?

2 A No. I think that's what I'm talking about.
3 I think there's not only policy, but there's --
4 there's some case law against shooting at motor
13:31 5 vehicles that are fleeing. I know the California
6 Highway Patrol actually has a policy that thou will
7 not shoot vehicles fleeing on a freeway --

8 Q Right.

9 A -- for purposes of apprehension.

13:31 10 Q And you, as part of the materials you
11 reviewed in this case, you reviewed the depositions
12 of the involved officers?

13 A Yes. Sergeant Cleveland and
14 Officer Henderson.

13:31 15 Q Right. And did you note in -- in their
16 testimony that either one or both of them indicated
17 that, based on their training, you couldn't shoot
18 this vehicle simply for fleeing under the facts of
19 this case?

13:31 20 A And I think they both testified under oath
21 if Mr. -- if the driver had driven around them, they
22 would have let him go.

23 Q Okay. Do you agree with that, generally,
24 that under the facts of this case, you cannot use
13:32 25 deadly force by shooting the driver just for

1 fleeing?

2 A Not only do I agree, I think they were
3 well-trained officers to understand that policy or
4 the aspect of that policy.

13:32 5 Q Okay. Are -- are officers generally taught
6 to assess during a shooting sequence when they can,
7 and what I mean by that is I know sometimes it may
8 be difficult to assess with every shot, obviously,
9 but I know back in the day there was some training
13:32 10 with the County either to take two or three shots
11 and assess.

12 Do you recall that general training?

13 A Well, that is training. That's not
14 real-life scenario, and it has nothing to do with
13:33 15 policy and defensive force in the face of a deadly
16 threat, but that is training. That is training.

17 Q Okay. What --

18 A It's a training scenario, and it's actually
19 written up, and it's called a "failure drill" where
13:33 20 you can either take two shots to the body, one to
21 the head, you reassess; two shots to the head, one
22 to the body, you reassess. It's a training drill.
23 It's not a prescription for how officers are to
24 perform in the field, and I think that's a very
13:33 25 important distinction.

1 A I believe it was in 2001/2002.

2 Q Okay. So in terms of the concept -- we've
3 talked about this before too -- the acronym IDL,
4 Immediate Defense of Life?

13:36 5 A Yes.

6 Q So in terms of a moving vehicle, I guess,
7 the immediate or imminent threat of death or serious
8 bodily injury would, in that context, would be the
9 vehicle striking or -- or hitting the officer; is
10 that --

11 A That's a fair statement.

12 Q Okay. So in order for there to be, based
13 on the police training and standards, a
14 justification to use deadly force against the driver
13:36 15 of a vehicle, you would need the immediate or
16 imminent threat of death or serious bodily injury,
17 and you would need a scenario where the officer
18 cannot get out of the path of the vehicle?

19 In other words, you would need the
13:37 20 imminency of the threat, and if you can look back to
21 Exhibit 1 for a second -- do you still have that?

22 A Yes, I do.

23 Q So I'm looking about two thirds of the way
24 down. It says "A Department member shall not
13:37 25 discharge a firearm at a motor vehicle or its

1 occupants in response to a threat posed solely by
2 the vehicle unless the member has an objectively
3 reasonable belief that" -- and then it has two
4 bullet points: The first one, "The vehicle or
13:37 5 suspect poses an immediate threat of death or
6 serious physical injury to the Department member or
7 another person," and then it has an "and"
8 underlined, "the Department member has no reasonable
9 alternative course of action to prevent the death or
13:37 10 serious physical injury."

11 Is that your general understanding of the
12 training with respect to shooting at a moving
13 vehicle?

14 A Yes, sir.

13:38 15 Q Okay. So you would need the immediate
16 threat of death or serious bodily injury and no
17 reasonable alternative course of action such as
18 stepping out of the path?

19 A Very fair statement, yes.

13:38 20 Q Okay. And is it your understanding that
21 the -- the CHP policy is generally consistent with
22 the principles we've been talking about with respect
23 to the use of deadly force and shooting at moving
24 vehicles?

13:38 25 A Absolutely.

1 STATE OF CALIFORNIA)
2) ss.
3 COUNTY OF LOS ANGELES)
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10 I, CLARENCE R. CHAPMAN, say I have read the
11 foregoing deposition and declare under penalty of
12 perjury that the foregoing is true and correct; that
13 I have made any corrections as appear noted, in ink,
14 initialed by me.

15 EXECUTED this _____ day of _____,
16 2018, at _____, _____.
17 (City) (State)
18

19 _____
20 CLARENCE R. CHAPMAN
21
22
23
24
25

1 STATE OF CALIFORNIA)
) ss.
2 COUNTY OF LOS ANGELES)

3

4 I, Amber Pilson, Certified Shorthand
5 Reporter License No. 13992, for the State of
6 California, do hereby certify:

7 That, prior to being examined, the witness
8 named in the foregoing deposition, to wit, CLARENCE
9 R. CHAPMAN, was by me duly sworn to testify to the
10 truth, the whole truth, and nothing but the truth;

11 That said deposition was taken down by me
12 in shorthand at the time and place therein named and
13 thereafter reduced to computer-aided transcription
14 under my direction;

15 That the foregoing transcript, as typed, is
16 a true record of the said proceedings.

17 I further certify that I am not interested
18 in the event of the action.

19

20 WITNESS my hand this 8th day of August,
21 2018.

22

23

24

25

Amber Pilson, CSR NO. 13992